

# Transcript

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□ **Sweet, Kristina (she/her)** started transcription

**SK** **Sweet, Kristina (she/her)** 0:08

Welcome everyone.

Thank you so much for joining us this morning.

My name is Christina Sweet and I'm with the Vermont Community Broadband Board staff. I'm joined by my colleague Alexi Montserrat today and we are here for a Vermont broadband equity access and deployment pre award webinar. We're going to be providing an overview of the award and application process.

For the Vermont bead program, also known as VTB.

And in just a minute, I'm going to pass this off to our colleagues at RSM, who have been working with us over the past couple of months to prepare for this opportunity.

And they will lead you over the information over the next several half an hour or so.

And after that we will have time for Q&A.

So thanks very much and I'll pass it off to Arsen.

**RJ** **Reyes, Jill** 1:08

Thanks Christina.

Hi everyone.

My name is Jill Reyes.

I'm a partner here at RSM and it's great to meet with you this morning.

You can see that we have a a pretty full agenda.

However, as Christina mentioned, it's an overview of the bead requirements, and so today we'll be fairly high level.

We welcome your questions and we will add them to the frequently asked questions document that's in progress.

And then we there will be some additional trainings later on that I think we'll talk about.

Later today.

But for those of you who aren't familiar with RSM, there's a little bit about R the firm on the screen, but I'm joined today by Jen Wade, who is a director in our practice.

She is a former state agency leader over broadband grant programs, and I'll let her tell you a little bit about herself shortly, but we are currently assisting the the Vermont Community Broadband Board by supporting the VTB process.

As well as all of you through the application and technical assistance.

Means that you may have over the course of the program.

Happy to take those questions at any time.

There are several ways that you can reach not only us, but the the vcbb at your convenience and we look forward to hearing your questions.

Next slide please.

And so I will pass it over to Jen Waite.

So she can tell you a little bit about herself, and then we'll get into the overview of the program and into the rest of the content.

 **Wade, Jen** 2:41

Thanks Jill.

So yes, as Joe mentioned, Jen Wade, director in our practice here at RSM, I am a former state broadband.

Leader, advisor, etcetera and my time here at RSM. I've been really a technical advisor on RB and broadband program.

So really happy to join you all today again to dive into the overview of the program just for time sake here. And as I both alluded to high level overview.

So when we get to certain things, we could, you know, spend hours kind of going through this, but we're going to high level.

Many of these requirements of the bead program in June of 2023, Vermont was allocated 228.9 million of federal bead funds.

Funds are prioritized for unserved locations. Those that can't get access of 25 / 3 megabits per second and understand locations, or those that can't get between 25 / 3 and 100 / 20 megabits per second.

For a planning phase, Vcbb has submitted 3B plans to the federal government for to NTIA.

The five year action plan initial proposal, volume one and volume 2.

For those of you who may have prior awards under state fiscal recovery funds, CPF you reconnect art off, et cetera, those requirements are going to vary from the bead program, some may overlap.

And there may be some requirements with just different facets to them, but in

general the bead requirements are much more prescriptive than prior programs that you may be used to.

Including the eligible expenses that are awarded or afforded to the states to your lives.

Program among the eligible expenses and we'll talk through those just in just a moment. There are a list of limited permissible activities that are outlined specifically in the terms and conditions and the NOFO. In addition to that, the letter of credit performance bonds is a requirement that you.

May not be used to.

There are matching fund requirements under the bead program.

NEPA and NHPA are requirements under the bead program that were not applicable under state fiscal recovery funds and capital project funds.

As well as buy America.

I'm sorry. Build America. Buy American.

So if you may recall, on certain programs prior to the bid program, this was a preference really and not a mandate. And so it is a requirement with some waivers that we'll talk through as well.

Davis Bacon. There's a different threshold for Davis, Bacon and Bead, so I wanted to highlight that as well.

There is a cybersecurity and supply chain risk management requirement under Bead as well.

The payment structure, the utilization of fixed awards while.

CPI and state fiscal recovery funds did evolve to that in May of 2023, with the uniform guidance updates provided by Treasury in DIA has harmonized.

Are in harmony with that.

And so we'll talk through the payment structure under BCBB structure there and as well as the monitoring compliance that is very much outlined in the Bead NOFO.

So we'll talk through that as well.

Again, I mentioned the eligible expenses here the eligible uses of funding in connection with the Bead program. And again, I'm not going to read through all these, but they are highlighted explicitly in the GUID guidance for Bead including construction and improvements or acquisition to facilities and telecommunications equip.

Required to implement the program.

Long term leases, deployment engineering and permitting design.

Network software training for the cybersecurity piece of that and workforce development.

Here again there are implementation activities right that are aligning to the site preparation, demolition, construction, ground disturbance, fixed insulation, or any other implementation. Activities may not begin prior to the completion of the EHP. The environmental requirements NEPA and NHPA outlined in the section of the bead Nofo and.

We'll get to that a little bit when we talk through NEPA and NHP requirements. However, it is really important.

Understand what these limited permissible activities are and what are allowed prior to the completion of the NEPA and HPA requirements.

So based on the guidance that is outlined by NTIA, VCBB will allow the limited permissible activities under NEPA to proceed with using the funds prior to the completion of EHP review.

So again, wanted to highlight these pre construction and planning.

Applications for environmental permits.

Studies including, but not limited to your E as or your environmental assessments, wetland delineations, biological assessments, archaeology, archaeological surveys and other environmental reviews and analysis administrative costs.

A big question.

That kind of really.

Everyone's asking the bead program the pre award application costs are under the limited permissible activities.

Activity supporting consultation required under the nhpa Endangered Species Act and the Clean Water Act.

And then limited preliminary procurement, including the purchase of lease of equipment or entering into binding contracts to do so.

I do want to highlight here and this is really important that sub recipients or potential sub recipients if you're a potential applicant for the bead program for BCBB that undertake unauthorized project activities and contravention of the information proceed at their own risk and may face the obligation of.

Funding and sub recipients that incur costs prior to the execution.

Of the final award agreement preceded their own risk and may face rejection of those costs if deemed unallowable.

So these are extremely crucial as you're building your budgets to apply for the bead

program. But just understanding what is allowed prior to the NHPA and NEPA requirements.

I did mention the letter of credit and performance bonds is a requirement that we haven't seen in previous programs. And just to highlight here during the application period, Bcbb asked that the applicants be able to certify.

Their organization is aware of the requirement that it understands a letter of credit or performance bond obligation as outlined in the NOFO and that are required to advise if you'll be using a letter of credit or a performance bond through the application process.

Bcbb will make preliminary awards, which are subject to final review and approval by NTIA, but prior to entering into the agreement, prospective sub recipients must complete the following.

Each prospective sub recipient must establish either its own financial qualifications to participate in the bTB program.

B. Program with a letter of credit which will see as the acronym LLC or the alternative obtaining a performance bond, ensuring its performance of the SUB award.

Secondarily, the Bcbb will be will require that perspective sub recipients using the LSC.

OC to obtain one that is equal to 25% of the sub award amount.

To begin receiving funding if the sub recipient meets the build out plan that set forth in the proposal in the first year, it will be allowed to renew the LLC and the amount that's consistent with the section 2.3 of the programmatic waiver.

So all the requirements for letter of credit and performance bond outline within the application phase align to the NTI as programmatic waivers.

I mentioned the matching funds requirement as well.

So what are matching funds?

They're also known as a cost share.

It's really the portion of the project's cost that is not paid by federal funds. The bead program has a requirement for a 25% match for deployment projects, and this is exclusive of the high cost areas.

Any funds provided as match for deployment must stay with the project and cannot be allocated to other program activities.

So, talking through what can count as a match, there are certain requirements set out in the statute.

As what can be deemed match and we'll talk through that. But as far as who can

provide the match, it can be directly from the sub recipient, the ISP, etcetera.

It can come from a nonprofit organization or a partner.

Local government unit of local government, a utility company.

The eligible entity should be the state, a federal, regional Commission or authority.

For a for profit company, regional planning, government organization cooperative.

So this is the eligible source of funding, so funds from other federal programs, including funds from the FCCS Universal Service Funds program generally may not be used as match.

However, the infrastructure investment and JOBS Act does expressly provide that matching funds for the bead program can come from, you know, those entities that I did outline earlier.

It can also come from the families first Coronavirus Response Act of 2020.

The Coronavirus aid, Relief and Economic Secure Act of 2020 are what we refer to as the Cares Fund the Consolidated Appropriations Act of 2021 or the American Rescue Plan Act of 2021, and it can also come from loan funding, you know, through things. Such as the USD as reconnect program and those can all be used as match funds.

Here's a brief slide on the criteria for match.

Again, I won't read through every single one of these, but really just ensuring that it conforms to the requirements outlined in the NOFO to make sure that it meets the requirements and one of the biggest questions that we are getting from potential applicants are the use of in.

I match so NTIA has outlined that in kind match maybe utilized during the program and so I wanted to talk briefly about what that entails and what.

Your expectations are.

And putting that in your proposal. So in kind match is really the non cash donation and it can be anything from property, goods, services, it can be personnel and things like that. But that benefit your project, it may count towards satisfying that non federal matching requirement that is.

Outlined in the bead nofo for your total budgeted cost. When such contributions meet the criteria.

They must be allowable and allocable.

Project expenses and may come from a third party as you're putting these together.

I do want to highlight that the CBB is required to maintain the documentation to justify the use of the Inkind match such as property and services that a potential applicant may contribute to its bid.

Total project costs, so if you are.

If you are thinking of using in kind match when you're putting your budgets together and applying for bid funding.

It is really important to provide the support behind the in kind match.

The documentation really behind this should show how the assigned value was determined for the match, whether it's personnel, services or goods, and you should maintain records that detail the contribution, the date that it was contributed, the valuation method and donation terms really to support the amount that you.

Claiming for the match funds for the project.

The contribution should also be relevant to the the project and then have evaluation methodology again just to support that it actually reflects allowability and then actual market conditions.

So here are just again a few examples of what in kind match could be an applicability of this.

We talked about personnel, so employee or volunteer services, equipment, supplies, indirect cost can also be used as in kind match.

Again on the supply.

Kind of an equipment front computer hardware and software. The use of facilities, facilities in general.

Waiver of fees associated with access to right of way poll attachments.

Conduits and such can also be used as in kind match.

Moving to the NEPA and NHPA summary overview, really of what this requirement is. Again, I mentioned that this was not a requirement during some of the previous programs.

Really. So the national Environmental Policy Act states that.

The States must ensure that be funded projects do comply with the NIPA regulations, which require environmental assessments or impact statements for activities affecting the environment.

This includes.

Evaluating potential impacts of broadband infrastructure on natural resources, wildlife habitats and water systems, while nhpa or the National Historic Preservation Act, requires that the bead projects comply with the NHP requirements that requires the states to assess the impact of the broadband infrastructure on things like historic sites cult.

Landmarks and tribal lands.

Coordination with states, historic preservation offices, or shippo's and tribal historic preservation offices.

Is also crucial to avoid delays on these projects, so again, as this is an overview, we could talk at length regarding some of the NEPA and NHPA requirements, but some of the key takeaways from the overview is really understanding that there is a need for compliance requirements so.

Projects that are funded with bead have to comply with those requirements.

Requiring those environmental reviews and approvals before any construction can begin.

Going back to the eligible expenses and limited permissible activities, those have to align.

And applicants or potential applicants rather even must align their project timelines with the NIPA review process and approval process.

And in preparing for the environmental reviews applicants or potential applicants should anticipate the need to provide detailed environmental impact assessments and supporting documentation.

Or their understanding of that as they go through the process and really understanding the need for process. You know, starting that early on can help streamline approvals and avoid any project delays.

And really, the one of the biggest takeaways is avoiding the starting construction prematurely, right?

I did again under the limited permissible activities. Construction on projects can't begin until all of the neipa requirements are fulfilled, so premature construction may result in non compliance or jeopardizing of the funding.

So that is crucial.

Bead sub recipients or subgrantees must provide a milestone schedule, identifying specific deadlines and describing how Subgrante proposes to meet timing requirements for the completion of any required consultations.

The completion of applicable reviews for NEPA and the NHPA section 106 and Endangered Species Act, the submission of EAS or environmental assessments, or the EIS Environmental impact statements as well if required.

Tired.

Milestone schedules. They will include nipa and permitting work that qualifies as those limited permissible pre implementation activities and so this is really moving from what we're looking forward to now, which would be the application phase and



the award phase.

So this is what the sub recipients will be required to submit over to the state and then ultimately to NTIA.

Here's just a visual really of the items that required prior to project Start NIPA review. NHPA review again and applicable additional reviews, and there are links here that we can provide you and they are also outlined in the FA QS as well.

But again, to highlight very, very important key take away sub recipients or even potential applicants as you are, you know seeking to apply for bid funds may not begin any grant funded project implementation activities.

Until these key items are submitted and approved.

And again, as I mentioned, the build America buy America, Buy American requirement again was a preference in some previous programs.

It is a requirement here.

It incentivizes the domestic production of specific manufactured projects. This is based on strategic prioritization criteria that includes network and data security, which will directly expand American job opportunities.

The key requirements for Buy American are domestic sourcing of material really for iron steel.

Manufactured products. The majority of components must be in a 55% of the total cost in manufactured. Good must be sourced domestically.

This includes fiber optics, cables, electronics and network equipment as well.

Construction materials such as glass, lumber, drywall, plastic, etcetera used in the construction must also be manufactured in the US.

These requirements apply to any infrastructure project funded under the buy American program.

Including deployment of broadband networks and related facilities and as I mentioned briefly earlier, there are general public interest waivers.

There are several waivers under the program.

This is issued when adherence to Buy American would be inconsistent with public interest.

Their non availability waivers unreasonable cost waivers.

But I will say though, the waiver request must be well documented and approved by the relevant federal or state agency overseeing the program.

And there is rigid compliance and enforcement on the build America by America requirement broadband providers and contractors must maintain and track have robust tracking for this to support any of their their purchases to ensure that it

complies with the boba requirement.

And if not, you know that that could be a non compliance finding.

So really the impact of this there is really an increased project planning and coordination to source compliant materials for this. And again, even with the waivers, there's potential cost and time implications due to supply chain.

Opportunities for collaboration with domestic manufacturers, manufacturers and suppliers to streamline the compliance of this.

There are additional details that are outlined on the bottom requirements and NTIA guidance.

That really we've linked here will provide again in subsequent training sessions and FA QS, but you can see items on the waivers what that entails by going to those links. But again, just remembering perspective, entities are going to be held responsible to self certify and report compliance with the Bible requirements and the use of the Bible waiver for the bead program.

Just some best practices also for meeting the Bible requirements. Early supplier engagement, if you haven't already starting that earlier supplier engagement, identifying domestic suppliers for broadband equipment materials, starting the documentation phase. If you are already you know.

Thinking about applying for bead and what that looks like with a robust tracking and documentation system.

And then education and training, really training project teams and contractors on Baba requirements to make sure they understand and can adhere to the requirement.

Again, just some more information on the Baba waiver.

They may waive the application of this preference or of this requirement mandate, rather, when the public interest and consistencies are there insufficiently produce materials and increase US materials cost, as I outlined earlier.

Again, I mentioned the Davis bacon requirement.

Contractors must pay laborers and mechanics working on this on site, at least the locally prevailing wages.

This includes fringe and benefits listed in the Davis Bacon wage determination applicable to the contract for the work performed, Davis Bacon Labor Standards clauses must be included in cover contracts, and that's one thing from a compliance and monitoring standpoint.

Those those contracts will be looked at to make sure that those.

Clauses are included in any contracts related to the broadband work under bead.

There are two ways that you can meet the Davis bacon requirement.

There is a Davis bacon certification.

So you will certify that for your projects that have a total project cost, right?

Not just your award cost.

Equaling 5 million or more.

You may certify that all workers are paid at or above prevailing wage rates.

Under federal law, through the Davis Bacon Act.

Secondarily, you can provide a project labor agreement.

Again for same same threshold. Here you may certify that the project will either use unionized project workforce or include a project labour agreement.

If the certification is not provided then the sub recipient must provide a project workforce continuity plan as well and you can see the bead nofo section there as well addressing that.

I later mentioned the cybersecurity and supply chain risk management requirements here.

Perspectives of recipients must prepare a cybersecurity risk management plan and have that plan in place prior to the award of the grant. If the sub recipient is providing service to the area already or the perspective sub recipient must demonstrate that it is ready to be operationalized upon. Prov.

Service.

If it is not yet providing service prior to the grant award or for new entrance, the plan must meet or must reflect the latest version of the NIST framework.

And also be submitted to Vcbb prior to the allocation of funds.

If the sub recipient makes any substantial, sorry, substantive changes to the plan, that new version should be submitted within 30 days.

Along with this requirement is the cyber supply chain risk management plan and this must be in place again prior to the award of the grant if the sub recipient is providing service to the area already or the perspectives of recipient must demonstrate that is ready to be Oper.

Upon providing service.

They must meet a few requirements.

So be based on key practices discussed in an ISTIR cybersecurity chain, management observations from the industry.

Be based on related scrm guidance from NIST and specify the controls to be

implemented.

Mentioned earlier, the harmonization with Treasuries, uniform guidance updates here.

VCBB plans to utilize the fixed sub award structure as their payment structure for the B program.

To reduce the program's administrative costs and promote participation in the bead program.

Vcbb may award sub awards on a cost reimbursement basis if specific cases warrant this type of agreement. So sub recipients under the fixed sub award.

Payment method are not required to comply with the cost principles under uniform guidance pursuant to NTI NT is updates.

So the utilization of the fixed sub award repayment structure?

Allows the CBB to provide some flexibility for the is PS or providers that are under the bead program and so some of the applicability under uniform guidance is then waived if the utilization if they're utilizing the fixed sub awards.

The following will be required of sub recipients before any disbursement of bead funds can be made, so they they will have a specific project milestone payment structure where the VCBB will require reporting of the completed milestones of the project.

And then part of this will be the monitoring of those milestones as well.

Vcbb will monitor the activities for common fraud activities, including false claims for materials and labor bribes.

Product substitution etcetera.

Mentioned earlier as well that monitoring compliance does have a very prescriptive outline for the bead program throughout the bead program. Ntia is conducting ongoing monitoring for the eligible entities of the states progress against its original initial volume initial proposal, volume one and two and will ensure that the.

Requirements of the Infrastructure Act are met.

The expectations really that trickle down to the sub recipients, they can expect a thorough and structured monitoring program aimed at ensuring the compliance with all the policies and procedures under the bead program.

This will include, but is not limited to two regular reviews of financial and programmatic performance, and some of those methods that we use are on site visits.

Ask reviews.

Self assessments may be additional reporting as well.

TN

Sub recipient should be prepared to provide comprehensive and accurate documentation.

So one of the things we say on our side too is document, document, document, including financial records, expenditure reports, proof of compliance with program guidelines and you may need to share internal policies and procedures demonstrating internal controls that relate back to two CFR 200 or the UN.

Guidance that is outlined.

Still under the fixed sub award structure and may have to participate in discussions with monitoring staff to clarify practices and address any potential compliance issues. Just to highlight here, all records and expenditures will be subject to.

To that monitoring and compliance that I outlined in the previous slide.

So I just wanted to highlight that briefly to ensure that sub recipients have a clear expectation of what is required under the monitoring and compliance structure.

So bead compliance and reporting again is a little different than some of the programs that you may be used to, including the framework for the frequency of the reporting.

B does have a semiannual reporting requirements, including a minimum of the following, which includes speed, pricing and fees, interconnection agreements.

There is updated guidance that is predicated on the time of this webinar that does outline more of the reporting requirements as well as the site visit requirements and things like that that we weave into the program.

Compliance and reporting framework as well as reporting for the Labour that I mentioned earlier under Davis Bacon.

So again, the certification or the Project Labour report.

And just to highlight again, the bead compliance requirements build America, NEPA, nhpa are really some of the bigger ones that we haven't seen in prior programs. That again are either were a preference and other programs that are now mandated or that are just newly mandated in these program.

So again, I know that is a lot of information in a very short amount of time, especially in an overview, but as Jill mentioned, we will be providing additional breakout on training and you may need you know extra time on an HPA and NEPA to really understand the.

Breadth of the requirement. But at this time I do want to open it up to some questions to see if you have any on anything we've covered today.